

Issue to Which This Motion Relates

2. Petitioner was originally sentenced in this court to a sentence of 120 months incarceration on July 2, 2015. Thereafter, petitioner file a timely appeal, and the Sixth Circuit reversed and remanded the case back to this court for re-sentencing. See United States v. Malone, 646 Fed. Appx. 454 (6th Cir. 2016). The resentencing was held on November 15, 2017.

3. At petitioner original sentencing on July 2, 2015, he was given jail credit for 8 months. That represents the time between his original arrest on November 4, 2014, and July 2, 2015. This is reflected on petitioner's judgment. But, at this petitioner's resentencing, he was not given any jail credit for the time between his original sentencing on July 2, 2015 and November 15, 2016, a total of over 15 months. (about 15 months and 12 days). His current judgement only reflects the same 8 months of jail credit from the original judgment.

4. Neither the court or the Bureau of Prison has credited this time period although petitioner remained incarcerated during the entire period. Therefore, petitioner ask this court to adjust his sentence/judgment to account for this period of incarceration in accordance with Fed. R. Crim. P. 36, which states:

"After giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.

Alternatively, petitioner request that the court amend the judgement in accordance with 18 USC § 3585(b)(1) which states:

"A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences -- (1) as a result of the offense for which the sentence was imposed."

C O N C L U S I O N   A N D   R E L I E F   S O U G H T

In light of all of the above, petitioner prays that this court will correct his judgment which this court has the power to do under either 28 USC § 2255, Rule 36 of the Federal Rules of criminal Procedure, or 18 USC § 3585(b)(1), to reflect that petitioner be given jail credit for the period on July 2, 2015 thru November 15, 2016.